

REMARKS

Applicants respectfully request entry of the following amendments and remarks in response to the Office Action mailed August 5, 2009. Applicants respectfully submit that the amendments and remarks contained herein place the instant application in condition for allowance.

Upon entry of the amendments in this response, claims 1, 4-17, 19-23, 26-27, 29-30, 46-55, and 57-59 are pending. In particular, Applicants amend claims 1, 4-11, 13-17, 20, 26, 27, 46, and 55. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Telephone Interview

The Examiner is encouraged to contact Applicants' attorney, after reviewing the present response, to resolve or discuss any questions or outstanding issues in an effort to expedite examination of the present application.

II. Rejections Under 35 U.S.C. §112, First Paragraph

The Office Action indicates that claims 1, 4-17, 19-23, 26-27, 29-30, 46-55, and 57-59 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to provide enablement for broadcasting an offer of assistance to an employee and receiving a request for assistance from a person. In particular, the Office Action contends that the claim requires an offer of assistance to be broadcasted to a particular employee. In response, Applicants submit that the claims require an offer of assistance to be broadcasted to an employee--any employee--and do not require a broadcast to a

particular employee. Further, a broadcast to a plurality of employees still satisfies a broadcast to an employee since the plurality of employees comprises an employee. As such, the Office Action acknowledges that the specification is enabled for broadcasting an offer of assistance to a plurality of employees. For at least these reasons, the rejection should be withdrawn.

The Office Action additionally indicates that claims 1, 4-17, 19-23, 26-27, 29-30, 46-55, and 57-59 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to provide a written description for an email server, at least one computer of the business environment, and a server to provide medical resources. It is noted that the Office Action does acknowledge that an Internet server is described in the specification. Further, the specification describes that information is available to a general work population on a web site, see para. 0056, discloses a computing device connected to the Internet that can be used to establish communication with the wellness management assistance program, such as by email, see para. 0060, discloses a web server that provides web pages with helpful information on the wellness management assistance program. See para. 0061. Accordingly, Applicants respectfully submit that the specification describes the claimed subject matter in sufficient detail such that one skilled in the art can reasonably conclude that the inventors had possession of the claimed subject matter. For at least these reasons, the rejection should be withdrawn.

III. Rejections Under 35 U.S.C. §112, Second Paragraph

The Office Action indicates that claims 1, 4-17, 19-23, 26-27, 29-30, 46-55, and 57-59 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly failing to

distinctly claim broadcasting an offer of assistance to an employee and receiving a request for assistance from a person. In particular, the Office Action states that it is unclear as to whether the employee and the person are the same. The claims have been rewritten to address the Examiner's concerns. Withdrawal of the rejection is respectfully requested.

The Office Action further indicates that claims 46-55 and 57-59 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly failing to provide antecedent basis for "the active members." Claim 15 is also rejected for allegedly failing to provide antecedent basis for "informational resource material." The claims have been rewritten to address the Examiner's concerns. Withdrawal of the rejection is respectfully requested.

IV. Rejections Under 35 U.S.C. §103

Claims 1, 4-17, 19-23, 26-27, 29, 30, and 46 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Goldstein* (U.S. Patent Publication Number 2001/0021910 A1) in view of *Schultz* (U.S. Patent Publication No. 2001/0032091 A1). Claims 6-7, 19, 50, and 58 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Goldstein* in view of *Schultz* in further view of Official Notice. Claim 13 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Goldstein* in view of *Schultz* in further view of *Morse* (U.S. Patent Publication No. 2002/0116225 A1). Claims 15 and 21 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Goldstein* in view of *Schultz* in further view of *Schwartz* (U.S. Patent Publication No. 2002/0091538 A1). Claim 20 stands rejected

under 35 U.S.C. §103(a) as allegedly being unpatentable over *Goldstein* in view of *Schultz* in further view of *White* (U.S. Patent Publication No. 2002/0079142 A1). Claim 30 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Goldstein* in view of *Schultz* in further view of *Joao* (U.S. Patent Publication No. 2001/0032099 A1). Claims 47-55 and 57-59 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Goldstein* in view of *Schultz* in further view of *Belfiore* (U.S. Patent Publication No. 2002/0059425 A1).

a. Claims 1, 4-17, 19-23, 26-27, 29, and 30

As provided in independent claim 1, Applicants claim:

A method for providing assistance in managing a medical treatment within a business environment, comprising:

at least one electronic machine broadcasting an offer of assistance from fellow members of the business environment to an employee for managing a medical treatment over different communication channels of the business of an employer of the employee, the at least one electronic machine comprising at least one of a video monitoring system installed in a locale of the business environment, a web server hosting a private web site on an intranet of the business, and an email server providing email communications for the business;

at least one electronic mailbox receiving a request for assistance in managing a medical treatment from the employee who is concerned with a medical condition, wherein the request is received at a business address for the at least one electronic mailbox comprising at least one of a business email address, a business telephone number, and a web address; and

utilizing at least one computer of the business environment to assist in managing the medical treatment for the medical condition, the at least one computer comprising at least one of a database to track a status of the assistance being provided and a server to produce medical resource guides in electronic form provided to persons receiving assistance.

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Goldstein* in view of *Schultz* does not disclose, teach, or suggest “at least one electronic machine broadcasting an offer of assistance from fellow members of the business environment to an employee for managing a medical treatment over different communication channels of the business of an employer of the employee” and “utilizing at least one computer of the business environment to assist in managing the medical treatment for the medical condition, the at least one computer comprising at least one of a database to track a status of the assistance being provided and a server to produce medical resource guides in electronic form provided to persons receiving assistance,” as emphasized above.

For example, *Goldstein* describes delivering pre and post operative support to patients undergoing medical procedures, where the support is provided by medical practitioners. Accordingly, *Goldstein* is not directed to providing assistance in managing a medical treatment within a business (e.g., non-medical practitioner) environment of an employer for its own employees by members of the business environment (e.g., fellow employees). Therefore, *Goldstein* fails to teach or suggest “at least one electronic machine broadcasting an offer of assistance from fellow members of the business environment to an employee for managing a medical treatment over different communication channels of the business of an employer of the employee” and “utilizing at least one computer of the business environment to assist in managing the medical treatment for the medical condition, the at least one computer comprising at least one of a database to track a status of the assistance being provided and a server to produce

medical resource guides in electronic form provided to persons receiving assistance,” as recited in claim 1.

Schultz does not remedy the foregoing deficiencies of *Goldstein*. As an example, the Office Action states that *Schultz* “discloses a system for providing intranet based programs, which includes private company networks communicating information to employees.” Page 8. In response, Applicants note that *Schultz* discloses that an employee is connected to a provider of a selected option which entails that the employee is connected to a web site of the provider which is outside an employer’s intranet. See para. 0024, 0058-0059, and 0068. Accordingly, *Schultz* does not disclose that assistance is offered to an employee of a business environment from fellow members of the business environment (e.g., fellow employees). As such, *Goldstein* in view of *Schultz* fails to teach or suggest “at least one electronic machine broadcasting an offer of assistance from fellow members of the business environment to an employee for managing a medical treatment over different communication channels of the business of an employer of the employee” and “utilizing at least one computer of the business environment to assist in managing the medical treatment for the medical condition, the at least one computer comprising at least one of a database to track a status of the assistance being provided and a server to produce medical resource guides in electronic form provided to persons receiving assistance,” as recited in claim 1.

As a result, claim 1 is patentable over *Goldstein* in view of *Schultz*, and the rejection of claim 1 should be withdrawn. Since claims 4, 5, 8-12, 14-17, 21-23, and 26-29 depend

from and include the features of claim 1 and recite additional features, claims 4-17, 19-23, 26-27, and 29-30 are allowable as a matter of law over the cited art of record.

b. Claims 6-7, 13, 15, 19-21, and 30

All of the claimed features of independent claim 1 are not taught and suggested by *Goldstein* and *Schultz*, as previously discussed. *Morse*, *White*, *Schwartz*, and *Joao* do not remedy the deficiencies of *Goldstein* and *Schultz* with respect to independent claim 1. For example, each of the references are directed to a health care or medical practitioner environment. Since claims 6-7, 13, 15, 19-21, and 30 depend from independent claim 1 and recite additional features, claims 6-7, 13, 15, 19-21, and 30 are allowable over the cited art as a matter of law. Accordingly, the rejection of claims 6-7, 13, 15, 19-21, and 30 should be withdrawn.

With respect to claims 6-7 and 19, the Office Action states that Applicants have not properly traversed the prior official notices of fact and therefore has admitted the official notices as prior art. In response, Applicants traverse the new finding. Per MPEP 2144.03, “an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” Accordingly, in an earlier response, Applicants pointed to:

In addition, regarding claims 6-7, the Office Action “takes Official Notice that it is old and well known in the arts that a person requesting information about a medical condition may be an active or retired employee and may be newly diagnosed or have a family member who is newly diagnosed with a disease.” Page 11.

For claim 19, the Office Action “takes Official Notice that recruiting volunteers in the workplace is old and well known in the arts.” Page 11.

Pages 19-21 of Applicants' Response filed May 26, 2009. Additionally, Applicants provided the following explanation as to why the noticed facts should not be considered to be well-known:

In response, Applicants respectfully submit that each of the cited references fail to address a scenario where a business environment recruits volunteers to facilitate management of a medical treatment of a fellow employee. Accordingly, each of the cited references provides support for the finding that a process of recruiting volunteers for managing a medical treatment within a business environment is not obvious.

The Office Action has also not provided a reference showing that such an action elicits this type of prompt in the prior art.

Pages 19-21 of Applicants' Response filed May 26, 2009.

Therefore, in accordance with the rule, Applicants traversed the new finding by specifically pointing out the supposed errors in the examiner's action, including stating why the noticed fact is not considered to be common knowledge or well-known in the art. For at least these reasons, it is improper to find that Applicants have admitted the noticed facts. Furthermore, Applicants respectfully submit that its traversal of the finding of Official Notice is adequate and should not be construed as an admission that the officially noticed facts are admitted prior art.

Moreover, please also note that since an RCE is being filed to enable a new search for prior art, there is no basis for maintaining the finding of admitted prior art, AND, more importantly, the only requirement of the rule to prevent an admission is that applicant provide "A" reason, not that it be necessarily adequate to convince the Examiner of Applicants' position.

Per MPEP 2144.03(A), “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” Also, per MPEP 2144.03(B), “If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.”

As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the Official Notice and the rejections based upon this finding should be withdrawn. Further, under 37 CFR § 1.104(d)(2), if the rejections are based on facts within the personal knowledge of the examiner, “the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the applicant and other persons.”

Therefore, Applicants respectfully submit that its traversal of the finding of Official Notice is adequate and should not be construed as an admission that the officially noticed facts are admitted prior art. Further, if these rejection are maintained, Applicants respectfully request that document(s) be provided as support under 37 CFR § 1.104(d)(2).

Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such

conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

Additionally, Applicants disagree with the finding that it is well-known that the Federal Government conducts an annual Combined Federal Charities Campaign. See page 20 of the Office Action. For example, there are no dates provided to establish that information as prior art of the present application, much less being so well known that no evidence is needed. Therefore, we request such evidence as support for that finding.

On a related point, the Office Action argues that soliciting volunteers for fundraising efforts adequately discloses recruiting volunteers from a business environment to assist in managing medical treatment of an employee from the business environment, as described in the claimed methods. See page 20. In response, Applicants submit that the claimed methods positively recite steps or acts that are not performed by the cited references. The mere fact that a system component could have carried out the claimed subject matter does not disclose the claims: “Inherency . . . may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Applicants respectfully submit to hold the mere existence of a possibility to reprogram a computer to achieve a particular application would render virtually any computer-implemented process inherently disclosed by mere existence of a general computer in a cited art reference. In the present case, the prior art devices do not in their normal and usual operation, necessarily perform the claimed methods. See MPEP 2112.02. Accordingly, since the rejection fails to show how the claimed methods would

necessarily occur during normal and usual operation of processes disclosed in the cited art, the rejections should be withdrawn.

c. Claims 46-55 and 57-59

As provided in independent claim 46, Applicants claim:

A system for implementing a program that provides assistance in managing a medical treatment within a business environment, comprising:

an electronic machine broadcasting an offer of assistance from fellow members of the business environment to current and retired employees for managing a medical treatment over different communication channels of the business of an employer, the electronic machine comprising at least one of a video monitoring system installed in a locale of the business environment, a web server hosting a private web site on an intranet of the business, and an email server providing email communications for the business;

an electronic mailbox to store a message from an individual who is requesting assistance regarding a medical treatment, wherein the individual is currently employed or a retiree in the business and the request is received at a business address for the electronic mailbox comprising at least one of a business email address, a business telephone number, and a web address; and

a local information computer network provided within the business environment to disseminate information about the availability of services performed by the program to current and retired employees of the business environment, wherein the local information computer network comprises a video monitoring system to display video information to current employees.

(Emphasis added).

Applicants respectfully submit that independent claim 46 is allowable for at least the reason that *Goldstein* in view of *Schultz* does not disclose, teach, or suggest at least “an electronic machine broadcasting an offer of assistance from fellow members of the business environment to current and retired employees for managing a medical treatment over different communication channels of the business of an employer” and “a local information computer network provided within the business environment to disseminate information about the availability of services performed by the program to

current and retired employees of the business environment, wherein the local information computer network comprises a video monitoring system to display video information to current employees,” as emphasized above.

For example, *Goldstein* describes delivering pre and post operative support to patients undergoing medical procedures, where the support is provided by medical practitioners. Accordingly, *Goldstein* is not directed to providing assistance in managing a medical treatment within a business (e.g., non-medical practitioner) environment of an employer for its own employees by members of the business environment (e.g., fellow employees). Therefore, *Goldstein* fails to teach or suggest at least “an electronic machine broadcasting an offer of assistance from fellow members of the business environment to current and retired employees for managing a medical treatment over different communication channels of the business of an employer” and “a local information computer network provided within the business environment to disseminate information about the availability of services performed by the program to current and retired employees of the business environment, wherein the local information computer network comprises a video monitoring system to display video information to current employees,” as recited in claim 46.

Schultz does not remedy the foregoing deficiencies of *Goldstein*. As an example, the Office Action states that *Schultz* “discloses a system for providing intranet based programs, which includes private company networks communicating information to employees.” Page 8. In response, Applicants note that *Schultz* discloses that an employee is connected to a provider of a selected option which entails that the employee is connected to a web site of the provider which is outside an employer’s

intranet. See para. 0024, 0058-0059, and 0068. Accordingly, *Schultz* does not disclose that assistance is offered to an employee of a business environment from fellow members of the business environment (e.g., fellow employees). As such, *Goldstein* in view of *Schultz* fails to teach or suggest at least “an electronic machine broadcasting an offer of assistance from fellow members of the business environment to current and retired employees for managing a medical treatment over different communication channels of the business of an employer” and “a local information computer network provided within the business environment to disseminate information about the availability of services performed by the program to current and retired employees of the business environment, wherein the local information computer network comprises a video monitoring system to display video information to current employees,” as recited in claim 46.

As a result, claim 46 is patentable over *Goldstein* in view of *Schultz*, and the rejection of claim 46 should be withdrawn.

d. Claims 47-55 and 57-59

All of the claimed features of independent claim 46 are not taught and suggested by *Goldstein* and *Schultz*, as previously discussed. *Belfiore* does not remedy the deficiencies of *Goldstein* and *Schultz* with respect to independent claim 46. For example, *Belfiore* describes a server federation including a plurality of servers that communicate with a plurality of client devices. *Belfiore* is not directed to providing assistance in managing a medical treatment within a business (e.g., non-medical practitioner) environment. Since claims 47-55 and 57-59 depend from independent claim 46 and recite additional features,

claims 47-55 and 57-59 are allowable over the cited art as a matter of law. Accordingly, the rejection of claims 47-55 and 57-59 should be withdrawn.

With respect to claims 50 and 58, the Office Action states that Applicants have not properly traversed the prior official notices of fact and therefore has admitted the official notices as prior art. In response, Applicants traverse the new finding. Per MPEP 2144.03, “an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” Accordingly, in an earlier response, Applicants made the following points and provided the following explanations as to why the noticed facts should not be considered to be well-known:

In addition, the Office Action “takes Official Notice that it is old and well known in the arts to solicit for volunteers for a variety of programs including employee assistance programs.” Page 15. In response, Applicants respectfully submit that each of the cited references fail to address a scenario where a business environment solicits volunteers to facilitate management of a medical treatment of a fellow employee. Accordingly, each of the cited references provides support for the finding that a process of soliciting volunteers to provide assistance in managing a medical treatment within a business environment is not obvious.

The Office Action has also not provided a reference showing that such an action elicits this type of prompt in the prior art. Accordingly, Applicants traverse the finding of Official Notice and does not consider the official noticed facts to be admitted prior art by specifically pointing out errors in the Office Action which included stating why the noticed facts should not be considered to be common knowledge or well-known in the art.

Pages 23-24 of Applicants’ Response filed May 26, 2009.

Therefore, in accordance with the rule, Applicants traversed the new finding by specifically pointing out the supposed errors in the examiner’s action, including stating why the noticed fact is not considered to be common knowledge or well-known in the

art. For at least these reasons, it is improper to find that Applicants have admitted the noticed facts. Furthermore, Applicants respectfully submit that its traversal of the finding of Official Notice is adequate and should not be construed as an admission that the officially noticed facts are admitted prior art.

The Office Action has also not provided a reference showing that such an action elicits this type of prompt in the prior art. Accordingly, Applicants traverse the finding of Official Notice and does not consider the official noticed facts to be admitted prior art by specifically pointing out errors in the Office Action which included stating why the noticed facts should not be considered to be common knowledge or well-known in the art.

Per MPEP 2144.03(A), "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Also, per MPEP 2144.03(B), "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge."

As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the Official Notice and the rejections based upon this finding should be withdrawn. Further, under 37 CFR § 1.104(d)(2), if the rejections are based on facts within the personal knowledge of the examiner, "the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an

affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the applicant and other persons.”

Therefore, Applicants respectfully submit that its traversal of the finding of Official Notice is adequate and should not be construed as an admission that the officially noticed facts are admitted prior art. Further, if these rejection are maintained, Applicants respectfully request that document(s) be provided as support under 37 CFR § 1.104(d)(2).

Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

Additionally, Applicants disagree with the finding that it is well-known that the Federal Government conducts an annual Combined Federal Charities Campaign. See page 20 of the Office Action. For example, there are no dates provided to establish that information as prior art of the present application, much less being so well known that no evidence is needed. Therefore, we request such evidence as support for that finding.

On a related point, the Office Action argues that soliciting volunteers for fundraising efforts adequately discloses recruiting volunteers from a business environment to assist in managing medical treatment of an employee from the business environment, as described in the claimed methods. See page 20. In response, Applicants submit that the claimed methods positively recite steps or acts that are not

performed by the cited references. The mere fact that a system component could have carried out the claimed subject matter does not disclose the claims: “Inherency . . . may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Applicants respectfully submit to hold the mere existence of a possibility to reprogram a computer to achieve a particular application would render virtually any computer-implemented process inherently disclosed by mere existence of a general computer in a cited art reference. In the present case, the prior art devices do not in their normal and usual operation, necessarily perform the claimed methods. See MPEP 2112.02. Accordingly, since the rejection fails to show how the claimed methods would necessarily occur during normal and usual operation of processes disclosed in the cited art, the rejections should be withdrawn.

CONCLUSION

For at least the reasons set forth above, all objections and/or rejections have been traversed, rendered moot, and/or addressed, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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